

# Teacher strikes – lessons learnt so far

22 February 2023

With the next wave of NEU strikes for teachers due to start regionally from 28 February 2023, now is the time to look back at the last strike, consider lessons learnt and whether there is anything that might help things run more smoothly going forward.

## It's all about effective communication

Where the strike is against the government rather than the employer, as in this case, it should be very clear that the employer is not the enemy.

However, the practical difficulties of managing the strike days can easily lead to tensions where senior leaders can start to feel drawn into the firing line.

The earlier you can communicate your expectations around the strike with staff (and parents) the more prepared you will feel, and the clearer staff will feel about their rights and responsibilities when engaging in strike action.

For example:

- do staff know what will happen if they are late on the day of the strike?
- is there a point at which they will be considered as on strike?
- what are the reporting requirements if they are late or ill on the day of the strike?

The more information you can provide to staff before the strike takes place, the clearer your expectations are and if staff subsequently fail to comply with those actions the easier your response will be.

With that in mind, we look at three of the trickier issues on which we've recently supported clients...

## Managing behaviour on strike days

There is no obligation on staff to tell you whether they are part of a union, and if they are, which union they are part of. This can make it difficult to identify whether staff are striking lawfully or not. Many of you will have had good success asking staff to volunteer the information to help you plan.

It can be very difficult to manage however where you have staff striking who you suspect are from a different union. Whilst disciplinary action is possible in that situation, we would think very carefully about the strategy we employ to manage this behaviour. Having set clear expectations before the strike so there is no risk of misunderstanding about who is eligible will help.

Understandably, there is also a lot of public support for the teachers' strikes but any requests from parents/members of the public to join the picket lines should be strongly discouraged. Failure to do so runs the risk of mass picketing and potential illegal behaviour.

## Providing cover during a strike day

We're aware that some unions have been advising support staff not to refuse to provide cover during a strike day. It is our view that this advice is not necessary. Whilst we can understand the motivation for it, the question of whether or not a member of support staff can be

required to provide cover will largely depend on their role and whether they would normally be expected to provide this type of cover under their job description.

If the request is for cover that they would normally be expected to carry out, then the staff member's refusal to carry out the task is not reasonable response.

Where this was raised as an issue on the first strike day, we would suggest proactive and sensitive discussions with the individuals involved to be clear on expectations going forward.

## Calculating Pay

There is no obligation to pay for a day when an employee is on strike. A day's pay can be deducted from the normal salary for a day in which a member of staff is on strike (usually 1/365<sup>th</sup> of their annual pay for teachers or 1/260<sup>th</sup> for support staff - unless your employment contracts state otherwise).

Statutory protection against unlawful deductions from wages does not apply in relation to strike days. If an employee was not due to work on a strike day, you should not deduct any pay for it.

For part-time striking workers, the calculation is slightly more complicated and we would recommend seeking specific advice as required.

## Communication is key

Although there is no obligation to tell staff you will be making these deductions, it is good practice and minimises potential disputes later if you do. Where schools and trusts have sent our template 'Letter to staff regarding strike action', staff will already have been warned about the deduction in pay if they do not attend work and have no authorised reason for their absence on a strike day.

We also recommend that you write further to staff following the strike to confirm a deduction in pay is going to be made from that worker. Our 'Letter to staff regarding pay deduction' covers this.

## Keeping the bigger picture in mind

Senior leaders will have extensive experience managing relations with their staff and, to varying extent, unions. Where we have seen our clients have real success in managing strikes has been through taking the longer-term view to this short-term issue.

There might only be four more days of strikes currently planned but the memory of how staff felt they were managed during that time will live on. Through working with your teams and providing the leadership and support they are looking for, the potential for negative impact long-term can be kept at bay.

## Further support, guidance and resources

To access any of the templates referenced above, or if you would benefit from more in-depth support, take a look at our [Industrial Action Support Pack](#). This best-practice resource provides comprehensive support through our template letters to cover all scenarios, a detailed risk assessment to support decision-making around whether schools stay open as well as thorough guidance on all the technical issues.

[Download the Industrial Action Support Pack](#) →

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